

FILE COPY

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San Jose, CA 95131
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Attorney for Plaintiffs
Jin Wu and Chang Zhang

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
COMPLAINT**

Jin Wu and Chang Zhang

Plaintiffs,

v.

Alberto Gonzales, United States Attorney
General, U.S. Department of Justice;
Michael Chertoff, Secretary of the
Department of Homeland Security;
Emilio T. Gonzalez, Director of United States
Citizenship and Immigration Services;

Defendants

Case 07 03118 JF

**PLAINTIFF'S ORIGINAL COMPLAINT
FOR WRIT IN THE NATURE OF
MANDAMUS & DECLARATORY
JUDGMENT UNDER 28 U.S.C. § 1361**

Immigration Case

Plaintiffs, Jin Wu and Chang Zhang, by and through their attorney of record, open this lawsuit against the Defendants and will show this Court the following:

1. Plaintiffs, Jin Wu and Chang Zhang, bring this action against the Defendants to compel action on the delayed processing of their I-485, *Application to Register Permanent Residence or Adjust Status*, applications. These applications remain within the jurisdiction of the Defendants who have improperly delayed and withheld action on these applications to Plaintiffs' detriment.

PARTIES

2. Plaintiff, Jin Wu, is the primary applicant of an I-485, *Application to Register Permanent Residence or Adjust Status* ("I-485" or "Application"), filed with United States Citizenship and Immigration Services ("USCIS").

3. Plaintiff, Chang Zhang, is the derivative applicant of the above I-485, *Application to Register Permanent Resident or Adjust Status*, filed with the USCIS.

4. Defendant, Alberto Gonzales, is the Attorney General of the United States and this action is brought against him in his official capacity. He is authorized to adjust to permanent residence status certain aliens who have been admitted to the United States, and is further authorized to delegate such powers to other government officials.

5. Defendant, Michael Chertoff, is the Secretary of the Department of Homeland Security ("DHS"), and this action is brought against him in his official capacity. Defendant Chertoff is generally charged with enforcement of the Immigration and Nationality Act, which provides for the processing of adjustment of status applications.

6. Defendant, Emilio T. Gonzalez, is the Director of USCIS, and this action is brought against him in his official capacity. USCIS is an agency within the DHS to which DHS' authority has, in part, been delegated. Defendant Director is generally charged with the overall administration of immigration benefits and services.

JURISDICTION

7. Jurisdiction in this case is proper under 28 U.S.C. §§ 1331 and 1361, 5 U.S.C. §§ 551, *et seq.* and 701, *et seq.*, and 28 U.S.C. § 2201 *et seq.* Relief is requested pursuant to said statutes. Additionally, attorney fees and costs will be sought pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 *et seq.*

VENUE

8. Venue is proper in this honorable Court, pursuant to 28 U.S.C. §1391(e), in that Plaintiffs may request a hearing on the matter in the district where Plaintiffs reside.

INTRADISTRICT ASSIGNMENT

9. This lawsuit should be assigned to the San Jose Division of this court because a substantial part of the event or omission which give rise to this lawsuit occurred in Santa Clara County.

EXHAUSTION OF REMEDIES

10. Plaintiffs have exhausted their administrative remedies. The Plaintiffs have supplied USCIS and the FBI with documents that clearly establish their eligibility to register as a permanent resident, and as will be demonstrated by the evidence, has followed up with numerous inquiries and requests to the pertinent administrative agencies attempting to expedite their delayed applications.

CAUSE OF ACTION

11. Plaintiffs properly filed their I-485, *Application to Register Permanent Residence or Adjust Status*, based on an I-140, *Immigrant Petition for Alien Worker*, pursuant to Section 245 of the Immigration & Naturalization Act ("INA").

12. These I-485 applications, filing fees, along with all supporting documentation, were filed with the USCIS California Service Center, on April 27, 2005. (**EXHIBIT 1**)

13. On June 22, 2006, Plaintiffs submitted their fingerprints to the USCIS San Jose Application Support Center. (**EXHIBIT 2**)

14. Plaintiffs wrote to U.S. Congressman Michael M. Honda requesting assistance with their stalled applications. In a letter dated January 19, 2007, Congressman Honda wrote to Plaintiff Jun Wu stating that her name check was received on December 03, 2003 and is still pending. He also stated that her husband, Plaintiff Chang Zhang's name check was received on December 03, 2003 and is also still pending. (**EXHIBIT 3**)

15. Plaintiffs wrote to Congressman Honda again in a letter dated February 01, 2007. Plaintiffs did not receive a response. (**EXHIBIT 4**)

16. Plaintiffs wrote to Congressman Honda again in a letter dated February 26, 2007. Congressman Honda responded in a letter dated March 15, 2007 informing Plaintiffs that he has made a follow-up inquiry with the FBI on their behalves. (**EXHIBIT 5**)

1 17. Plaintiff Chang Zhang made an Infopass appointment at the USCIS San Jose sub-office
2 for May 24, 2007, to inquire into the status of his case. Plaintiff Chang Zhang was told that his
3 case is still pending due to the FBI Name Check. (EXHIBIT 6)

4 18. It has been over 2 years since Plaintiffs first filed their I-485 applications with USCIS on
5 April 27, 2005. The Defendants have failed to properly adjudicate their petitions within a
6 reasonable time. They have improperly and unreasonably delayed the processing of Plaintiffs' I-
7 485 Application after Plaintiffs have paid for, and submitted, properly executed applications.

8 19. Although the role of Defendants is pivotal to the security of the United States of America,
9 the Defendants' actions have gone well beyond the expected 6-8 months processing time for the
10 adjudication of an I-485 Application (Please see California Service Center processing dates for I-
11 485 cases posted May 18, 2007 at (EXHIBIT 7). Defendants have failed to adhere to their own
12 processing times and procedures.

13 20. Defendants have sufficient information to determine Plaintiffs' eligibility pursuant to
14 applicable requirements and complete the processing procedures.

15 21. After numerous inquiries by Plaintiffs, Defendants have unreasonably and
16 inappropriately refused to adjudicate the petitions, thereby depriving Plaintiffs of the rights to
17 which they are entitled.

18 22. Plaintiffs have been greatly damaged by the failure of Defendants to act in accordance
19 with their duties under the law. Specifically:

20 (a) Plaintiffs have been unable to obtain legal permanent residence and thus
21 cannot travel or work without restriction. They must pay additional filing fees
22 each year in order to work and travel legally.

23 (b) Plaintiffs are unable to accrue time to be eligible for naturalization as citizens
24 of the United States, thus delaying their obtainment of the rights and
25 privileges enjoyed by citizens of the United States.

26 23. Defendants in violation of the Administrative Procedures Act at 5 U.S.C. § 706(1), are
27 unlawfully withholding action on Plaintiffs' applications, and have unreasonably delayed action
28 on Plaintiffs' cases.

24. Defendants in violation of the Administrative Procedures Act at 5 U.S.C. § 555(b), are unlawfully delaying action on Plaintiffs' applications and have failed to complete the adjudicative functions delegated to them by law within a reasonable time.

25. Plaintiff has provided sufficient evidence of their attempts to secure adjudication of the Applications at issue, all to no avail. Their administrative remedies have been exhausted. Accordingly, the Plaintiff has been forced to retain the services of an attorney to pursue the instant action.

PRAYER

26. WHEREFORE, in view of the arguments and authority noted herein, Plaintiffs respectfully pray that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order:

- (a) requiring Defendants to adjudicate plaintiffs' I-485 applications forthwith;
- (b) awarding reasonable attorney's fees pursuant to the Equal Access to Justice Act; and
- (c) granting such other relief at law and in equity as justice may require.

Dated: June 13, 2007

Respectfully Submitted,


Justin Fok, CSBN: 242272
Attorney for Plaintiffs

EXHIBIT LIST

- 1
- 2
- 3 Exhibit 1: Receipt of I-485 filings dated April 27, 2005
- 4
- 5 Exhibit 2: ASC Fingerprint Appointment Notices and Biometric Processing Stamps
- 6 dated June 22, 2006
- 7
- 8 Exhibit 3: Plaintiffs' letter to Congressman Mike Honda and response letter dated
- 9 January 19, 2007
- 10
- 11 Exhibit 4: Plaintiffs' letter to Congressman Mike Honda dated February 01, 2007
- 12
- 13 Exhibit 5: Plaintiffs' letter to Congressman Mike Honda dated February 26, 2007
- 14 and response letter dated March 15, 2007
- 15
- 16 Exhibit 6: Plaintiff Chang Zhang's Infopass appointment with USCIS San Jose sub
- 17 office dated May 24, 2007
- 18
- 19 Exhibit 7: USCIS California Service Center Processing Dates posted May 18, 2007
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- 22
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- 26
- 27
- 28

Exhibit 1

THE UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-05-149-50046		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS	
RECEIVED DATE April 27, 2005	PRIORITY DATE	APPLICANT A97 362 870 WU, JIN	
NOTICE DATE May 2, 2005	PAGE 1 of 1		
MILES ROEDER TAFAPOLSKY & SMITH LLP RE: JIN WU 90 NEW MONTGOMERY ST 8 FL SAN FRANCISCO CA 94105		Notice Type: Receipt Notice Amount received: \$ 385.00 Section: Adjustment as direct beneficiary of immigrant petition	

Receipt notice - If any of the above information is incorrect, call customer service immediately.

Processing time - Processing times vary by kind of case.

- You can check our current processing time for this kind of case on our website at uscis.gov.
- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.
- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.
- We will notify you by mail when we make a decision on this case, or if we need something from you.
- If you move while this case is pending, call customer service when you move.
- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update.

If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.

Notice to all customers with a pending I-130 petition - USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel <<http://www.state.gov/travel>> to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.

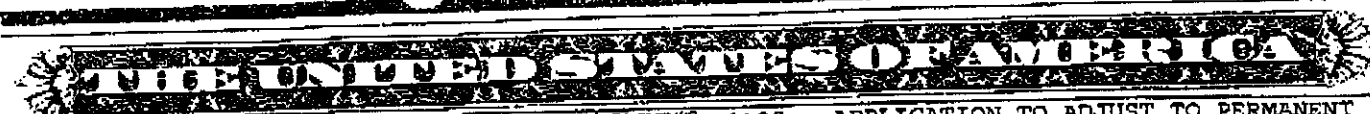
Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283



05-22-2007 16:04 FROM-T&S LLP
U.S. Citizenship and Immigration Service

T-508 P.007/012 F-081
I-770, NOTICE OF ACTION



RECEIPT NUMBER WAC-05-149-50075		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS	
RECEIVED DATE April 27, 2005	PRIORITY DATE	APPLICANT A97 362 871 ZHANG, CHANG	
NOTICE DATE May 2, 2005	PAGE 1 of 1		
MILES ROEDER TAPAPOLSKY & SMITH LLP RE: CHANG ZHANG 90 NEW MONTGOMERY ST 8 FL SAN FRANCISCO CA 94105		Notice Type: Receipt Notice Amount received: \$ 385.00 Section: Derivative adjustment	

Receipt notice - If any of the above information is incorrect, call customer service immediately.

Processing time - Processing times vary by kind of case.

- You can check our current processing time for this kind of case on our website at uscis.gov.
- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.
- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.
- We will notify you by mail when we make a decision on this case, or if we need something from you.
- If you move while this case is pending, call customer service when you move.
- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update.

If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.

Notice to all customers with a pending I-130 petition - USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel <<http://www.state.gov/travel>> to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283



Exhibit 2



ASC Appointment Notice

CASE TYPE

I485 Application to Register Permanent Resident or Adjust Status

APPLICATION NUMBER

WAC0514950046

SOCIAL SECURITY NUMBER

TCR

USCIS A#

A097362870

SERVICE CENTER

WSC

NOTICE DATE

6/7/2006

CODE

3

PAGE

1 of 1

JIN WU

SANTA CLARA, CA 95051

BIOMETRICS PROCESSING STAMP

ASC SITE CODE: XTE / SAN JOSE
BIOMETRICS QA REVIEW BY: JUN 22 2006

ON
TENPRINTS QA REVIEW BY: JUN 22 2006



To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.

**PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.**

APPLICATION SUPPORT CENTER

USCIS SAN JOSE
122 CHARCOT AVE.
SAN JOSE, CA 95131

DATE AND TIME OF APPOINTMENT

06/22/2006
11:00 AM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

- 1. THIS APPOINTMENT NOTICE** and
- 2. PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

REQUEST FOR RESCHEDULING

Please reschedule my appointment for the next available: ☐ Wednesday afternoon ☐ Saturday afternoon

U. S. Citizenship & Immigration Services (USCIS) cannot guarantee the day preferred, but will do so to the extent possible. Upon receipt of your request, you will be provided a new appointment notice. Make a copy of this notice for your records, then mail the original with your request to USCIS SAN JOSE, 122 CHARCOT AVE., SAN JOSE, CA 95131

APPLICATION NUMBER 1

I485 - WAC0514950046



If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.

If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.



ASC Appointment Notice

CASE TYPE
I485 Application to Register Permanent Resident or Adjust Status

APPLICATION NUMBER
WAC0514950075

SOCIAL SECURITY NUMBER

USCIS A#

A097362871

NOTICE DATE

6/7/2006

CODE

3

PAGE

1 of 1

TCR

SERVICE CENTER

WSC

CHANG ZHANG

SANTA CLARA, CA 95051

BIOMETRICS PROCESSING STAMP

ASC SITE CODE: XIE/SANJOSE
BIOMETRICS QA REVIEW BY:

ON JUN 22 2006

TENPRINTS QA REVIEW BY:

ON JUN 22 2006



To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.

**PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.**

APPLICATION SUPPORT CENTER

USCIS SAN JOSE
122 CHARCOT AVE.
SAN JOSE, CA 95131

DATE AND TIME OF APPOINTMENT

06/22/2006

9:00 AM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

1. **THIS APPOINTMENT NOTICE** and
2. **PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

REQUEST FOR RESCHEDULING

Please reschedule my appointment for the next available: ☐ Wednesday afternoon ☐ Saturday afternoon

U. S. Citizenship & Immigration Services (USCIS) cannot guarantee the day preferred, but will do so to the extent possible. Upon receipt of your request, you will be provided a new appointment notice. Make a copy of this notice for your records, then mail the original with your request to USCIS SAN JOSE, 122 CHARCOT AVE., SAN JOSE, CA 95131

APPLICATION NUMBER I

I485 - WAC0514950075



If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.

If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.

Exhibit 3

Jin Wu & Chang Zhang

Santa Clara CA 95051

Phone: (408) [REDACTED]

Email: [REDACTED]@yahoo.com

Mr. Mike Honda
District Office
1999 South Bascom Ave
Suite 815
Campbell, CA 95008
Phone: (408) 558-8085
Fax: (408) 558-8086

Dear Mr. Honda,

I am writing to sincerely ask your help on my family's background check issue (carried out by FBI) which has become such a lengthy part of our green card application process. According to the testimony of Mr. Robert J. Garrity, Jr., Acting Assistant Director, Records Management Division, FBI, Before the House of Representatives, Committee on Government Reform, July 10, 2003, the FBI's resolves 99% of all types of visa requests within 120 days. For our cases, though, it has been more than 16 months now, and they are still pending with FBI as what the agent in USCIS at California Service Center told me. We simply do not understand why our cases are taking so long.

I joined the EDA industry in the Silicon Valley right after I graduated from University of Maryland, College Park with Ph.D. When I started my green card application, 9 top professors and scholars from both academia and industry around the world voluntarily wrote testimony in support of my petition through EB1B category which is outstanding researchers and professors. As a result, my I-140 through EB1B was approved in April, 2005 which further demonstrated that I have made and will continue making great contributions to the American engineering community and industry. My husband, Dr. Chang Zhang, who also graduated from University of Maryland College Park with Ph.D., has become the co-inventor of several pending patents since he started working here in valley.

We have always believed that our talent and skills would be highly recognized in this country and particular in this Silicon Valley, and that is why we choose to work and live here. We work hard, pay taxes and try to live our American dream. We now have a daughter who was born in Mountain View, California and we have purchased a single family house in Santa Clara, California in 2004. All that we need is the green card which can allow us to keep making contribution to this country.

We would be so grateful if you can make an inquiry to FBI with regard to our background check cases and let us know if FBI is indeed actively working on our cases.

The detail information for our cases are as follows:

Applicant: Jin Wu, case type: I485, A# **WAC0514950046**

Applicant: Chang Zhang, case type I485, A# **WAC0514950075**

Thank you very much for reading this, and we are in great debts to you if you could pass us any further information.

Sincerely yours

Jin Wu and Chang Zhang

MICHAEL M. HONDA
15TH DISTRICT, CALIFORNIA



COMMITTEE ON SCIENCE

SUBCOMMITTEES:

RANKING MEMBER
ENERGY

SPACE AND AERONAUTICS

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

SUBCOMMITTEES:

AVIATION

HIGHWAYS, TRANSIT, AND PIPELINES

COAST GUARD AND MARITIME TRANSPORTATION

CHAIR

CONGRESSIONAL ASIAN PACIFIC
AMERICAN CAUCUS

January 19, 2007

WASHINGTON OFFICE:
1713 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2631
FAX: (202) 225-2699
<http://www.house.gov/honda>

DISTRICT OFFICE:
1999 SOUTH BASCOM AVENUE
SUITE #815
CAMPBELL, CA 95008
PHONE: (408) 558-8085
FAX: (408) 558-8086
GILROY RESIDENTS: (888) 643-4715

Congress of the United States

House of Representatives

Ms. Jin Wu
[REDACTED]

Santa Clara, California 95051

Dear Ms. Wu:

Thank you for contacting my office regarding your immigration petition. I am sorry to hear about the difficulties you are experiencing with your FBI name check. Please be advised that the FBI has verified that your name check was received on December 3, 2003 and is still "pending." Your husband, Mr. Chang Zhang's, name check was also received on December 3, 2003 and is also still "pending."

The FBI processes millions of name check requests each year with each requiring thoughtful consideration. According to the FBI, the name check process is administered by the National Name Check Program and involves several layers of review. The FBI's homeland security mission requires that the name check process be primarily focused on an accurate and thorough result. Before a name check is completed, it may require review by federal, state, local and foreign agencies. In addition to serving as a reviewing agency, the FBI is the clearinghouse for responses by other agencies. Delays and/or complications may arise due to a common name, spelling variations, frequent travel or changes in residency, criminal history, non-cooperation of foreign governments, multiple references, and inconsistent or incomplete information. In some cases, name checks require further investigation or detailed review.

According to the FBI, additional staff has been added to process the backlog caused by the tremendous volume of name check requests. However, if the delay is the result of another agency or a case requires more extensive review, the FBI cannot proceed with final processing. Unfortunately, some investigations take many months to complete. If your name check is still pending with the FBI after 6 more months have passed, please contact my office and I will make another inquiry on your behalf.

Since 2002, USCIS has increased the number and scope of relevant background checks, processing millions of security checks without incident. These security checks are done for all cases involving a petition or application for an immigration service or benefit. USCIS works closely with the Federal Bureau of Investigation (FBI) and other agencies to complete the background checks. The FBI name check is just one part of this process. Included with this letter is a USCIS Fact Sheet on Immigration Security Checks - How and Why the Process Works. This fact sheet may answer additional questions you may have about the entire security screening process.

I know how important this information is to you; however, the FBI must also balance the need for national security in preparing the response to each of these requests. While an exact date for completion of this review cannot be given be assured that the results will be made available to the immigration authorities as quickly as possible. Please understand that my office can only inquire regarding the status of your name check and where the FBI has submitted the results. My office cannot request that the process be expedited or waived, nor can my office inquire regarding the specific findings of the FBI or any other investigative agency. Once my office has verified that your name check is under active review, there is no further action to be taken.

I regret that my office could not provide a more favorable response at this time. However, I hope you will find this information useful.

Sincerely,

A handwritten signature in black ink that reads "Michael W. Honda". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Honda
Member of Congress

To receive updates on issues and events important to you, please sign up at <http://www.house.gov/honda/contactmike.html> for my e-mail newsletter.

MH:mw

Exhibit 4

Jin Wu & Chang Zhang

Santa Clara CA 95051

Phone: (408) [REDACTED]

Email: [REDACTED]@yahoo.com

Mr. Mike Honda
District Office
1999 South Bascom Ave
Suite 815
Campbell, CA 95008
Phone: (408) 558-8085
Fax: (408) 558-8086

Dear Mr. Honda,

First of all, thank you so much for your inquiry to FBI on our behalf with regard to our name check issue. We can not describe how important this information is to us.

Based on the information you obtained from FBI, both my husband's and my name check have been pending in FBI since 11/2003. This is extremely strange in the sense that both of our current I485 were only filed in 4/2005. We would expect that our name checks should be pending since 4/2005, not 11/2003. There must be something strange going on with our name check processes.

We only have one logical guess on the reason why our name checks have been pending since 11/2003. Prior to my employment with my current employer, I filed I140/I485 concurrently through EB1B category in 11/2003. But right after I filed these cases, I changed job in 1/2004. Since EB1B is employer dependent, these I140 and I485 were both denied in 7/2004. My new employer filed I140 again as EB1B for me in 9/2004 and this I140 was approved in 4/2005. I then filed another I485 based on the approved I140 in 4/2005.

As you can see from the above, apparently, when my first I485 was terminated, the name check process didn't get terminated along with it. This clearly shows why FBI name check process is so inefficient and can take so much time. This is simply because FBI might still be processing cases that are related to the terminated USCIS requests (I485 background check).

But what we are more worried about is that our current I485 name check request is related to the already terminated old I485. These two I485 are completely independent with each other. They do not overlap in any time frame. They should trigger independent name check processes. Since we do not really know how FBI conducts these name checks, based on exactly what (i.e. a USCIS background check request for I485) they send out each individual check request to different other government agencies and how they collect or even withdraw these requests from these other government agencies, we are afraid that our name checks cases were actually already terminated, or granted a very low priority because they were incorrectly associated with our old I485 cases.

We do understand that the FBI name check process is a very complicated and potentially time consuming process. We also understand that this name check process is crucial to ensure that no terrorists or criminals are ever granted the permanent residency of this country. There is by no means that we want to challenge this system. Instead, all we want is for FBI to look carefully into

our cases right now. By studying all the issues that our cases expose, we believe, FBI will be able to make its name check process more fair and more efficient which eventually can benefit a lot of other people who are currently also suffering the long waiting time.

Given that said, we would like to sincerely ask for your help again on our cases. We are wondering if you could make another inquiry to FBI on the following issues:

1. Are our name checks currently still actively being processed by all agents that are involved in the name check process? Does every agency know that this name check is associated with a valid I485 request instead of a denied/terminated I485 request?
2. Is FBI still expecting our name check to be finished by all agencies and is FBI still actively collecting results from these agencies for our cases? We hope FBI will not think it does not need to collect results for our cases anymore, because these name checks are associated with a denied/terminated I485 request.
3. Which USCIS requests are our name check cases associated with? If the name check cases are associated with the old terminated I485 cases, they should now be changed to be associated with the current new I485 case and hence with a much higher priority.

The following is our case information once again.

Applicant: Jin Wu, A# **A97362870**

current I485 with case # **WAC0514950046**, old terminated I485 with case#
WAC0403650018

Applicant: Chang Zhang, A# **A97362871**

current I485 with case# **WAC0514950075**, old terminated I485 with case#
WAC0403650023

Thank you very much for reading this, and we are in great debts to you if you could make this inquiry again on our behalf and pass us any further information.

Sincerely yours

Jin Wu and Chang Zhang
2/1/2007

Exhibit 5

Dr. Jin Wu & Dr. Chang Zhang

[REDACTED]
Santa Clara CA 95051

Mr. Mike Honda
District Office
1999 South Bascom Ave
Suite 815
Campbell, CA 95008

Dear Mr. Honda,

First of all, thank you so much for making an enquiry to FBI with regards to our name check last year. We simply can not describe how important this information is to us. We sent you another mail regarding our cases afterward, but to our great disappointment, we never received any response back.

We understand that name check can take a very long time in some cases. However, we truly believe that our name check cases have already been messed up. Here are the reasons:

1. According to FBI, 99% of all visa requests can be resolved within 120 days. Then, there is 99.99% chance that at least one of our name check case can be cleared within 6 month. Now, it has been over 3 years, and both of our cases are still pending. Don't you think it is indeed taking too long, even according to FBI's published standard? It is highly unlikely that this would happen if everything is going normal. Therefore:

- There must be something wrong in the process that our cases are being handled.

2. Based on your information from FBI, our cases have been pending since 11/03. This again indicates something wrong. We had another I485 filed in 11/03, but those cases have been terminated in 07/04. Our current cases were filed in 05/05. So, our cases should be pending since 05/05. FBI's record showing our cases having been pending since 11/03 indicates that:

- FBI has associated our current name check request with the terminated I485 cases and our name check requests have NOT been correctly processed.

Given these reasons said, we sincerely hope that you can make a further inquiry to FBI for our name check cases. All we ask for is a fair process of our cases.

We always know that you are the one congressman that speaks and cares for immigrants, especially for legal immigrant like us who have contributed and will continuing making huge contribution to the US economy. We truly believe you are the only one that we can count on in this particular case.

Here is our case detail:

Applicant: Jin Wu, A# **A97362870**

current I485 with case # **WAC0514950046**, old terminated I485 with case#

WAC0403650018

Applicant: Chang Zhang, A# **A97362871**

current I485 with case# **WAC0514950075**, old terminated I485 with case#

WAC0403650023

Thank you very much for reading this, and we are in great debts to you if you could make an inquiry about the above issues on our behalf.

Sincerely yours

Dr. Jin Wu & Dr. Chang Zhang
2/26/2007

MICHAEL M. HONDA
15TH DISTRICT, CALIFORNIA



COMMITTEE ON SCIENCE
SUBCOMMITTEES:
RANKING MEMBER
ENERGY
SPACE AND AERONAUTICS

WASHINGTON OFFICE:
1713 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2631
FAX: (202) 225-2699
<http://www.house.gov/honda>

DISTRICT OFFICE:
1999 SOUTH BASCOM AVENUE
SUITE #815
CAMPBELL, CA 95008
PHONE: (408) 558-8085
FAX: (408) 558-8086
GILROY RESIDENTS: (888) 643-4715

Congress of the United States

House of Representatives

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
SUBCOMMITTEES:
AVIATION
HIGHWAYS, TRANSIT, AND PIPELINES
COAST GUARD AND MARITIME TRANSPORTATION

CHAIR
CONGRESSIONAL ASIAN PACIFIC
AMERICAN CAUCUS

March 15, 2007

Ms. Jin Wu
3003 Mauricia Avenue
Santa Clara, California 95051

Dear Ms. Wu:

Thank you for contacting me regarding the problem you are having with the Federal Bureau of Investigation (FBI). I am sorry to hear about the difficulties you are continuing to experience with your background check.

I have made a follow-up inquiry with the FBI on your behalf. It has been my experience that it takes approximately 60 days for the FBI to respond. I will contact you as soon as I receive their response.

As your Congressional representative, I may inquire on the status of your case and will seek a fair and timely resolution of your concerns. However, please be advised that I am unable to assure a specific outcome regarding a particular case, or unduly influence the decision of an agency.

Thank you for allowing me to be of assistance.

Sincerely,

Mike Honda
Member of Congress

To receive updates on issues and events important to you, please sign up at
<http://www.house.gov/honda/contactmike.html> for my e-mail newsletter.

MH:mw

Exhibit 6



Name: Chang Zhang

**Appointment Speak to immigration officer
Type:**

**Confirmation SNJ-07-13494
No.:**

Appointment Date: May 24, 2007

**Authentication 17761
Code:**

**Appointment 7:15
Time: AM**

JLW **Location: 1887 MONTEREY ROAD, San Jose, CA 95112; LOBBY**

**This is your Confirmation
Number:**



**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
31821**

**Please be on time. Failure to show up on time will result in the cancellation of
your appointment. You will then need to reschedule your appointment. You will
not be admitted more than 15 minutes before your scheduled appointment time.**

- **You must appear in person and bring photo identification along with this appointment letter.**
- **Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)**
- **In order to serve you more efficiently, we require you to bring all applicable immigration forms, letters, receipts, translations and originals of supporting documents.**
- **NOTE: Cell phones that have camera features are not permitted in the building. Food and drinks are not permitted in the waiting room. In order to facilitate easy and swift entrance, you are advised to keep handbags and metal objects to a minimum by leaving such items at home or with a person who will remain outside the building.**

Exhibit 7


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U.S. Citizenship and Immigration Services

California Service Center Service Center Processing Dates

Posted May 18, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report that as the processing time. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show a date consistent with our service level goal because that reflects our commitment.

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information.
If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can [check the status of your case online](#).

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

Case Services - How do I... know what kind of services are available to me after I file my application or petition?

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

Service Center Processing Dates for **California Service Center** Posted May 18, 2007

Form	Title	Classification or Basis for Filing	Now Processing Cases with Receipt Notice Date of
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	July 05, 2006
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	February 12, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the U.S.	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	April 30, 2007
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	E - Treaty traders and investors	February 28, 2007
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	Blanket L	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	TN - North American Free Trade Agreement (NAFTA) professional	March 15, 2007
I-129F	Petition for Alien Fiance(e)	K-1/K-2 - Not yet married - fiance and/or dependent child	November 13, 2006
I-130	Petition for Alien Relative	U.S. citizen filing for a spouse, parent, or child under 21	November 12, 2006
I-130	Petition for Alien Relative	U.S. citizen filing for an unmarried son or daughter over 21	January 17, 2003
I-130	Petition for Alien Relative	U.S. citizen filing for a married son or daughter over 21	April 30, 2001

I-130	Petition for Alien Relative	U.S. citizen filing for a brother or sister	April 30, 2001
I-130	Petition for Alien Relative	Permanent resident filling for a spouse or child under 21	January 01, 2005
I-130	Petition for Alien Relative	Permanent resident filling for an unmarried son or daughter over 21	February 07, 2005
I-131	Application for Travel Document	All other applicants for advance parole	February 12, 2007
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	Readmission after deportation or removal	November 13, 2006
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	June 05, 2005
I-485	Application to Register Permanent Residence or to Adjust Status	Employment-based adjustment applications	November 13, 2006
I-526	Immigrant Petition By Alien Entrepreneur	For use by an entrepreneur who wishes to immigrate to the United States	November 13, 2006
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for F or M academic or vocational students	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	February 12, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	February 12, 2007
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	October 26, 2006
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents)	November 13, 2006
I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	February 26, 2007
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	April 16, 2007
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	February 26, 2007
I-765	Application for Employment Authorization	Based on TPS for Honduras/Nicaragua [(c)(19), (a)(12)]	February 26, 2007

I-765	Application for Employment Authorization	Based on TPS for El Salvador [(c)(19)(a) (12)]	February 26, 2007
I-765	Application for Employment Authorization	All other applications for employment authorization	February 26, 2007
I-817	Application for Family Unity Benefits	Voluntary departure under the family unity program	November 13, 2006
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	November 13, 2006
I-829	Petition by Entrepreneur to Remove Conditions	Removal of lawful permanent resident conditions (immigrant investors)	November 13, 2006
I-829	Petition by Entrepreneur to Remove Conditions	Removal of lawful permanent resident conditions (immigrant investors) based on PL107-273	September 10, 1997

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